

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.	2:23-cv-01195-JLS (SKx)	Date	December 4, 2023
Title	Caleb L. McGillvary v. Netflix, Inc. et al		

Present: The Honorable	Steve Kim, U.S. Magistrate Judge		
	Connie Chung		n/a
	Deputy Clerk		Court Smart / Recorder
Attorneys Present for Plaintiff:	Attorneys Present for Defendants:		
None present	None present		

Proceedings: (IN CHAMBERS) **ORDER DENYING PLAINTIFF’S SECOND EX PARTE APPLICATION FOR EARLY DOE DISCOVERY [ECF 59]**

Plaintiff Caleb McGillvary applies ex parte for leave to serve a subpoena on defendant All3Media America, LLC (“Raw TV”), who has been named in plaintiff’s complaint but not yet served. Plaintiff seeks the names and addresses of (1) the actors appearing in Raw TV’s “The Hatchet-Wielding Hitchhiker” documentary and (2) individuals who provided footage that appeared in the documentary. (ECF 61 at 8). He claims that he needs this information to add those people as named defendants in place of (as many as) 14 fictitious defendants described in the complaint.¹ (ECF 60 at 6; ECF 61 at 3). But even if these people would be properly named parties if identified—rather than (at most) potential witnesses or third-party individuals with potentially relevant discoverable information—there is no valid, credible, or persuasive reason why such information cannot be sought and obtained in the ordinary course of party discovery after Raw TV has been served with the complaint and appears in this action. Indeed, the district court has now granted plaintiff’s request for service of the summons and complaint by the U.S. Marshal’s Service and even extended the service deadline. (ECF 64). Thus, for all these reasons, the ex parte application is denied. *See Wakefield v. Thompson*, 177 F.3d 1160, 1163 (9th Cir. 1999); *Columbia Ins. Co. v. Seescandy.com*, 185 F.R.D. 573, 578–80 (N.D. Cal. 1999); *Am. LegalNet, Inc. v. Davis*, 673 F. Supp. 2d 1063, 1066–67 (C.D. Cal. 2009).

IT IS SO ORDERED.

¹ Under Local Civil Rule 19-1, plaintiff may name no more than 10 fictitious defendants.